

FILED

OCT 02 2020

Clerk, U.S. District Court
District Of Montana
Great Falls

John Hartsoe
P.O. Box 487
St. Ignatius Mt
59865

United States District Court, District of Montana
Great Falls Division

John Hartsoe, Plaintiff

CV-20-89-GF-JTJ

Order Issued by
deceased Judge C.B.
McNeil Issued on
August 29th 2011

Collateral attack
on "Fraud upon
Court"

Comes now John Hartsoe pro se submits
the following

That this court look at all the
evidence, documents, affidavits and the
facts, case law and rule if this
Order issued by C.B. McNeil was
"Fraud upon the court".

under federal courts equity jurisdiction,
plaintiff invokes "equitable remedial
right".

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Rule 60 Relief from judgement or order U.S.C.A. Federal rules of civil procedure Title VII judgement,
... Reasonable time criterion of this rule governing setting aside void judgement means, in effect no time limitation. Since void judgement is no judgement, Court that entered void judgement may vacate it at any time.

Fraud on the court is one of the most serious violations that can occur in a court of law. If fraud on the court occurs, the effect is that the entire case is voided or cancelled. Any ruling or judgement that the court has issued will be void.

For the official who acted in fraud upon the court, they may very well be required to step down from their position and may even be subjected to criminal consequences like a fine or a jail sentence. It could also result in other serious consequences, such as an attorney being disbarred,

or a judge being removed from office.

Bullock v. United States 763 F.2d 1115, 1121 (10th Cir 1985) the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself..."

under rule 60(B) because a void judgement can never acquire validity through leches.

See Crosby v. Bradstreet Co. 312 F.2d 483 (2nd Cir) Cert denied 373 U.S. 911, 83 S.Ct. 1300 06, Ed 2d (1963)

where the court vacated a judgement as void 30 years after entry. See also Marquette Corp. v. Priestley 234 F. Supp (E.D.S.C. 1964) where the court expressly held that Clause Rule 60(B)(4) carries no real time & limit.

Kocher v. Dow Chemical Co. U.S.C.A. 8th Dist (1997)... or "Plain Usurpation of Power" So as to render judgement void from its inception.

Windsor v. McVeigh. S. Ct (1876)
..."jurisdiction" is the right to hear and determine, not to determine without hearing.

Fuentes V. Shevin S.Ct. (1972) - 407 U.S. 67, 92 S.Ct (1983).. (3) (4) The constitutional right to be heard is a basic aspect of duty of government to follow in a fair process of decision making, when it acts to deprive a person of his possessions... Central meaning is that parties whose rights are to be affected are entitled to be

heard

U.S. V. Scheffer (1998) 523 U.S. 303, 118 S.Ct. 1261... We break no new ground in observing that an essential component of procedural fairness is an opportunity to be

heard

Dusenbery V. U.S. (2002) 534 U.S. 161, 122 S.Ct. 694
"The fundamental requisite of due process of law is the opportunity to be

heard

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"Plain Usurpation of Power"

Cox v. Burke, 706 S.O. 2d 43, 47
(Fla 5th D.C.A 1998)

The requisite fraud on the court occurs where, "it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the triers of fact or unfairly hampering the presentation of the opposing party's claim or defense"

Fifth amendment to U.S. Constitution
"No state shall deprive any person of life, liberty or property, with out due process of law"
(applies to all states)

Procedural due process. State must observe procedural requirements. An individual must be given a meaningful opportunity to be heard before the state deprives him of protected interest.

So this case law clearly shows that John Hartsoe had a constitutional right to be heard.

John Hartsoe was not allowed to attend because John Hartsoe "need to ask permission to attend"
See Att (2).

"Plain Usurpation of Power"

See Attachment (4)

John Hartsoe not present

See affidavit Lillie Morris, James Hartsoe clearly Judge McNeil knew main defendant John Hartsoe was not there.

In all the time through my illegal incarceration never did the issue of "ask permission to attend" come up in any of my ~~so~~ other court proceedings.

Upon notice of date of hearing John Hartsoe put in a Inmate request with date of hearing and always came back "done"

John Hartsoe is only asking this court to determine if "fraud upon the court" is the issue brought forth.

Not an appellate review, plain simple whether John Hartsoe's right to appear and defend, right to be heard, right to have his day in court was ignored.

The facts are clear "unconscionable scheme" by Judge C.B. McNeil and attorneys Clinton Fischer and Casey Emerson

Under 18 U.S.C. § 241 Conspiracy against rights -

If two or more persons conspire to injure, oppress...

oppression: an unjust or excessive exercise of power; as a: unlawful, wrongful, or corrupt exercise of authority by a public official acting under color of authority that causes a person ~~harm~~ harm.

Clearly the acts to proceed on with this hearing without defendant John Hartsoe by Judge McNeil and Fischer, Emerson

as officer of the court is very ~~oppressive~~
~~oppressive~~ and for Lillie Morris to ask Judge
McNeil where John Hartsoe was. And
for his answer to be "He doesn't need to be here"
both attorneys should of stopped the
proceedings as "officers of the Court".

Kupfer Man V. Consolidated Research and
Manufacturing Corp. 459 F.2d 1072 (2nd Cir 1972)

"While an attorney should represent his client
with singular loyalty that loyalty obviously
does not demand that he act dishonestly
or fraudulently; on the contrary his loyalty
to the court, as an off thereof,
demand integrity and honest dealings with
the court, and when he departs from
that standard in the conduct of a case,
he perpetrates a fraud upon the Court"

For Attorneys Fischer, Emerson to proceed
on like this was just an every day
hearing knowing defendant Hartsoe was not
present and hearing judge McNeil state
"He doesn't need to be here".
Clearly shows there part on this

"Fraud upon the Court"

Estelle V. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed. 251

United States V. Day, 969 F.2d 39, 42
(3rd Cir 1998) (holding pro se petition cannot be held to same standard as pleadings by attorneys)

Then *U. I. N. S.*, 58 Supp 2d 422, 429 (DNJ 1999)
Moreover, "the court is under duty to examine the complaint to determine if the allegations, provide for relief on any possible theory"

Noel V. Hall, 341 F.3d 1148, 1164 (9th Cir 2003)

a federal plaintiff asserts as a legal wrong an allegedly illegal act or omission by an adverse party, *Rooker-Feldman* does not bar jurisdiction"

Plaintiff is alleging the illegal act of
"Fraud upon the Court"

When a litigant can prove that an officer of the court fraudulently coerced or improperly influenced the impartial nature of the court, "fraud on the court" can be established"

Clear Affidavits by Lilie Morris, James Hartsoe and Court Minutes show that defendant John Hartsoe Not Present.

Because judge McNeil stated to Stacey Tew that John Hartsoe "Need to ask permission to attend"

and the affidavits point out that John Hartsoe "Didn't need to be there"

"Plain Usurpation of Power"

So the plain, simple request to this court is there "Fraud upon the Court"

If Not then this court (Judge Morris) explain to John Hartsoe, why his civil right to appear and defend, was denied. Why he had to get permission to attend why a one sided hearing is legal

The U.S. Supreme Court Stated, only in the absence of fraud is res judicata allowed.

So again issue here "Fraud upon the Court"

John Hartsoe was purposely kept out of his day in Court by corrupt Judge C. B. McNeil and not allowed to present any kind of defense. Never question witnesses never cross examine plaintiff, never allowed his day in Court.

TRYanny

Honesty and Integrity is all John Hartsoe expects

Done this 1st day of October
2020

466-2394978

John Hartsoe
John Hartsoe
P.O. Box 487
St. Ignace MT
59865

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A#2

DAWSON COUNTY ADULT DETENTION / CORRECTION FACILITY
INMATE SPECIAL REQUEST FORM

DATE COMPLETED: August 23-11

NAME: Hartsoe

Please Contact: S. Tew

AO# / CF# 3004153 POD/CELL B-46

☐ Lawyer _____

☐ Accounting _____

☐ Minister _____

☐ Check Release Date _____

☐ Haircut (when available) _____

☐ Special Request _____

Inmate comment: Wednesday 24 at 10:00 I have a hearing in Prison
I assume over Video-Conference. I need to talk to
my witnesses prior to conference 9:30 - If you could call
360-609-2742 and leave a message to tell Missy Young # to call (over)
.....

FOR OFFICIAL USE ONLY

The person you wanted called was contacted _____ by _____

Rev. 8-06

Your request is referred to _____ by _____

Comments: Mr. Hartsoe, I contacted the Court who stated that you need to
ask permission to attend and you need to make the arrangements
for this hearing. (due to being incarcerated that is not possible). They also
stated that these arrangements cannot be made by a third party the
day before. Due to the time limit and circumstances you will not be

Negligence

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A Hachment (4)

DV-10-353

Donna F. Hartsoe, Plaintiff

-vs-

John L. Hartsoe, etal, Defendants

MINUTE ENTRY

This matter before the Court on plaintiff's motion summary judgment and foreclosure. Plaintiff is present with counsel Clinton J. Fischer. John Hartsoe not present. James Hartsoe present pro se.

Plaintiff calls: James Hartsoe is sworn and testifies.

Donna Heisel is sworn and testifies, direct, Plaintiff's Exhibit's 4, 3, 1, 2, 5; & 6 are offered and admitted, cross, no re-direct. Witness may step down.

Plaintiff rests.

Defendant calls: James Hartsoe resumes the stand still under oath, cross, no direct. Witness may step down.

Defendant calls: Lillie Morris is sworn and testifies, direct, no cross. Witness may step down.

Court will take the motion under advisement.

Done this 24th day of August, 2011 with the Honorable C.B. McNeil presiding.

Lyn Fricker
Clerk District Court
By: Mary Asper, Deputy
Cr: bm

Cc: Clinton Fischer
John Hartsoe
James Hartsoe

(12)

(71)

John Hartsoe

P.O. Box 238

St. Ignatius Mt 59865

Attachment (Affidavit)

Montana Twentieth Judicial District Court

Donna Heisel - Plaintiff

John Hartsoe, James
Hartsoe, Lilie Morris

Case NO-10-353

Affidavit of
Lilie Morris

Comes now Lilie Morris, and being
first duly sworn ~~upho~~ upon her oath
deposes and says.

1. That at the summary judgement hearing
which I attended, I ask judge C.B.
McNeil where John was (marrying John Hartsoe)
His reply was that "He didn't need to
be here."

Further affidavit sageth not.

Lilie Morris

Lilie Morris

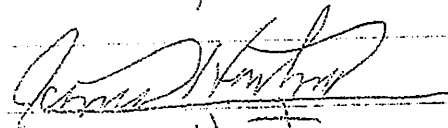
State of AZ county of Maricopa
subscribed and sworn before me
this 13th day of December, 2013
notary Breta Thielen
my commission expires: 4/2/17



Affidavit of James Hartsoe

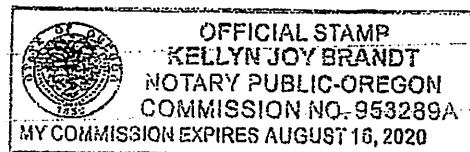
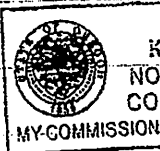
Comes now James Hartsoe and being first duly sworn upon his oath deposes and says.

At the summary judgement hearing which I (James Hartsoe) attended. Lilie Morris asked Judge C.B. McNeil "Where's John", meaning John Hartsoe. Judge McNeils reply, "He doesn't need to be here". A little later Lilie Morris ask Judge McNeil if John (meaning John Hartsoe) was going to be on the Television, (meaning video conference) again Judge McNeil stated, "He doesn't need to be here".
This took place on August 24th 2011
Further affidavit sayeth not



James Hartsoe

7/23/2018



Certificate of Acknowledgement

State of
County of

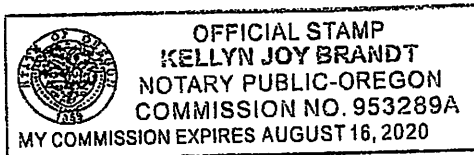
On JULY 23rd 2019, before me, Kellyn Brandt
(date) (notary)

personally appeared, James Michael Hartsce
(signers)

☐ personally known to me -- OR --

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal



(seal)

A handwritten signature in dark ink, appearing to read 'K. Brandt', is written over a horizontal line.

(notary signature)

OFFICIAL STAMP
KELLYN JOY BRANDT
NOTARY PUBLIC-OREGON
COMMISSION NO. 953289A
MY COMMISSION EXPIRES AUGUST 16, 2020